

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DANIEL GARCIA,

Plaintiff,

-against-

THOMAS, et al.,

Defendants.

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21-CV-636 (GBD) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

Plaintiff Daniel Garcia, proceeding *pro se*, commenced this action pursuant to 42 U.S.C. § 1983 on January 21, 2021, alleging that defendants, who are staff and administrators at the Anna M. Kross Center on Rikers Island, failed to protect him from harming himself during his detention. (Dkt. 1.) Defendants – Correctional Officers Thomas and Joseph, Captain Guerra, and Assistant Deputy Warden Blatz, represented by the New York City Law Department (Law Department) – filed their answer on July 26, 2021. (Dkt. 24.)

This Court set a discovery schedule on September 10, 2021, directing the parties to complete fact discovery no later than December 31, 2021. (Dkt. 28, at 1.) Just before the close of discovery, on December 28, 2021, defendants filed a motion to compel plaintiff to produce the medical releases necessary to complete fact discovery. (Dkt. 36.) On January 18, 2022, I ordered plaintiff to provide the necessary releases or risk dismissal of his case for failure to prosecute. (Dkt. 38.) On February 25, 2022, defendants informed the Court that plaintiff had yet to comply with the January 18 order, and sought discovery relief in the form of an extension of time to complete discovery until 120 days after the receipt of plaintiff's medical release. Status Ltr. dated Feb. 25, 2022 (Dkt. 39), at 1. Instead, I scheduled a discovery conference for April 1, 2022, and required the parties to appear in person. (Dkt. 40.) On April 1, plaintiff failed to appear, and I

granted defendants' request for leave to file a motion to dismiss pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. (Dkt. 42.)

Defendants filed their motion to dismiss on April 14, 2022. (Dkt. 43.) Thereafter, on May 6, 2022, defendants notified the Court that plaintiff had, in fact, provided a completed medical release "dated October 5, 2022 [sic] and postmarked October 29, 2022 [sic],"¹ but that the Law Department, through a series of administrative oversights, did not realize that it had been in receipt of plaintiff's release for approximately five months. (Dkt. 46.) Since then, there has been no activity in this case.

The parties are hereby ORDERED to submit a joint status report no later than **December 23, 2022**, informing the Court of the status of the matter and proposing a revised deadlines for completing discovery, filing summary judgment motions (if any), and submitting the proposed joint pretrial order.

Dated: New York, New York
December 16, 2022

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge

¹ The Court assumes that defendants meant October 5 and October 29, **2021**.